



Customer No.: 26308

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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mathias et al.

Docket No.: 1006.F-5235 CON 2

Serial No.: 10/619,870

Examiner: P. Bianco

Filed: 15 July 2003

Group Art Unit: 3762

Title: Confined Air Tube and Methods for Handling Air in Closed Blood Processing Systems

SUBMISSION OF TERMINAL DISCLAIMER

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the first Office Action, the Examiner expressed a double patenting rejection based upon US 6,267,745. In its Remarks in Amendment A, the applicant stated "The applicant will submit an appropriate terminal disclaimer upon indication of allowance of the pending claims." In the Notice of Allowability, the Examiner did not expressly re-address the previous double patenting rejection, in terms of either withdrawing it or requiring a terminal disclaimer.

Accordingly, as previously indicated in its Remarks, applicant submits herewith a Terminal Disclaimer based upon US 6,267,745 (with appropriate fee) for filing prior to payment of the Base Issue Fee.

Application Serial No. 10/619,879
Submission of Terminal Disclaimer
Page - 2 -

Respectfully Submitted,

By


Daniel D. Ryan

Registration No. 29,243

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Customer No.: 26308



Customer No. 26308

PATENT

Docket No. 1006.F-5235-CON 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Mathias et al.
Serial No: 10/619,870
Filed: 15 July 2003

Group No.: 3761
Examiner: P. Bianco

For: Confined Air Tube and Methods for Handling Air in Closed Blood Processing Systems

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION (37 CFR 1.321(c))

Identification of Person(s) Making This Disclaimer

I, Daniel D. Ryan (Registration Number 29,243)
(type or print names of all inventors or assigns or name of attorney signing disclaimer)

(a) represent that I am

☐ an inventor of this invention.

☐ an assignee of this invention.

WARNING: "If the patent or patent application is assigned to an organization, such as a corporation, partnership, university, government agency or similar entity, and the disclaimer is signed by the assignee, the assignee must comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61 at 56.

☐ a representative authorized to sign on behalf of the assignee identified below.

WARNING: See the above "WARNING".

☒ the attorney of record for this invention.

NOTE: The rules "permit an attorney or agent of record to sign a terminal disclaimer without the need to comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61, at 56.

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CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United State Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed as follows: Mail Stop Issue Fee, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Date: 12 October 2005

Linda S. Wenzel

Type or print name of person mailing paper

Linda S. Wenzel
(Signature of person mailing paper)

IDENTITY OF ASSIGNEE AND TITLE OF DISCLAIMANT
(if applicable)

The assignee is

Name of assignee Baxter International, Inc.

Address of assignee One Baxter Parkway

Deerfield, Illinois 60015

Title of disclaimant authorized to sign on behalf of assignee An Attorney of Record

EXTENT OF DISCLAIMANT'S INTEREST

The extent of the interest in this invention that the disclaimant owns is in:

- ☒ the whole of this invention.
- ☐ a sectional interest in this invention, as follows:

RECORDAL OF ASSIGNMENT IN PTO
(if applicable)

☒ The assignment was recorded on October 13, 1998

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Frame 0514

☐ Authorization for recordal of the assignment is separately attached.

- ☐ A separate
- ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET" or
- ☐ FORM PTO 1595 is also attached.

ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION
(if applicable)

☐ Attached is a CERTIFICATE UNDER 37 CFR 3.73(b) establishing the right of the assignee to take action in this case.

DISCLAIMER

The terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 of:

☒ United States Patent No. 6,267,745 as presently shortened by any terminal disclaimer,

☐ Any patent granted on application number _____

is hereby disclaimed, except as provided below, and it is agreed that any patent so granted on the above-identified application shall be enforceable only for, and during, such period that the legal title to said patent shall be the same as the legal title to

☒ United States Patent No. 6,267,745

☐ Any patent granted on application number _____

this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of:

☒ United States Patent No. 6,267,745, as presently shortened by any terminal disclaimer,

☐ Any patent granted on application number _____

in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued in any matter or is terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

FEE STATUS
(37 CFR 1.20(d))

☒ Other than a small entity-fee \$130.00.
☐ Small entity-fee \$65.00.

FEE PAYMENT

☒ Attached is a check in the sum of \$ 130.00
☒ Charge Account 06-2360 for any fee deficiency.

☐ Charge Deposit Account 06-2360 the sum of \$ _____

A duplicate of this disclaimer is attached.

DECLARATION

☐ As I am not a person registered to practice before the Office, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under SECTION 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: October 12, 2005

Reg. No.: 29,243

Telephone: (262) 783 - 1300

Customer No. 26308



Signature of Disclaimant

SIGNATURE OF ATTORNEY OF RECORD

Daniel D. Ryan

(type or print name of attorney)

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